## RECORDING REQUESTED BY:

U. S. Army Corps of Engineers Real Estate Division, ATTN: CESPK-RE-MC 1325 J Street Sacramento, CA 95814-2922 CERTIFIED COPY OF ORIGINAL DOCUMENT STEWART TITLE

JUN 26 2001

Time: 8:00 A. M. Series # 2006056381

#### WHEN RECORDED, MAIL TO:

Department of Toxic Substances Control Northern California Region 8800 Cal Center Drive ATTN: Anthony J. Landis, P.E. Chief of Northern California Operations Office of Military Facilities Sacramento, CA 95826-3200

(Space Above This Line For Recorder's Use Only)

# COVENANT TO RESTRICT USE OF PROPERTY ENVIRONMENTAL RESTRICTION

Re: This Covenant and Agreement ("Covenant") is for a portion of the former Fort Ord consisting of Parcels E4.6.2 and E8a.1.1.2 (the "Property"). The Property is described in the Finding of Suitability to Transfer (FOST), Former Fort Ord, California, Track 0 Plug-in C and Track 1 Parcels. The Property lies within a "Special Groundwater Protection Zone" as shown on the Former Fort Ord Special Groundwater Protection Zone Map (Exhibit "A") and defined by Monterey County Ordinance 04011 (Exhibit "B"). The Property, described below and shown on Exhibit "C", is within the jurisdiction of the County of Monterey, California. Parcel E4.6.2 is a portion of Imjin Road adjacent to the Abrams Park housing area and north of the Fort Ord Landfills. Parcel E8a.1.1.2 is adjacent to Intergarrison Road and south of the Fort Ord Landfills. Use of groundwater is prohibited on the Property. Representatives of the State of California and the United States have signed previous Covenants for portions of the former Fort Ord within the Special Groundwater Protection Zone.

This Covenant is made by and among The United States of America acting by and through the United States Department of the Army (also referred to herein as the "Covenantor"), the current owner of the herein described real property located in the County of Monterey, State of California, shown on Exhibit "C" and described in Exhibit "D", attached hereto and incorporated herein by this reference (the "Property"), the State of California acting by and through the

CRUP/Special Groundwater Protection Zone – Prohibition Zone FOST – Track 0 Plug-in C, Track 1 and Track 1 Plug-in Parcels (FOST 9) Monterey County Group Parcels E4.6.2 and E8a.1.1.2 Department of Toxic Substances Control ("Department"), and the Central Coast Regional Water Quality Control Board ("Regional Water Board").

The Covenantor's statutory authority for transferring this Property is the Defense Base Closure and Realignment Act of 1990 (P.L. 101-510, Title XXIX, Nov. 5, 1990, as amended). The Covenantor intends to transfer the Property to the Fort Ord Reuse Authority (FORA). As a part of that transfer, the Covenantor will impose separate deed restrictions on the Property, which will be similar to the restrictions contained in this Covenant. FORA intends to transfer the parcels it receives to the County of Monterey.

The Department and the Regional Water Board also wish to expedite the transfer of this property to FORA pursuant to the requirements of the Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA" 42 USCA § 9601 et seq.), Section 120(h). All of the former Fort Ord facility is subject to the requirements of CERCLA.

Pursuant to California Civil Code Section 1471(c), the Department and the Regional Water Board have determined that this Covenant is reasonably necessary to protect present or future human health or safety or the environment as a result of the presence of hazardous materials, as defined in the California Health and Safety Code Section 25260(d), in the groundwater, and to protect waters of the state in accordance with California Water Code Division 7.

The Covenantor, the Department and the Regional Water Board, collectively referred to as the "Parties", hereby agree that the use of the Property will be restricted as set forth in this Covenant.

#### ARTICLE I

#### STATEMENT OF FACTS

- 1.01 The Covenantor has conducted remedial investigations at the former Fort Ord under the supervision and authority of the Department, the Regional Water Board and the United States Environmental Protection Agency (U.S. EPA). These remedial investigations identified contaminate plumes in the groundwater underlying the former Fort Ord in four areas, which are designated as Operable Unit 1 (OU1), Operable Unit 2 (OU2), Sites 2 and 12 (Sites 2/12) and Operable Unit Carbon Tetrachloride Plume (OUCTP), collectively referred to as the "Plumes". The groundwater in these four areas is contaminated with volatile organic compounds (VOCs). For OU1, OU2 and Sites 2/12, the primary Contaminant of Concern (COC) is trichloroethylene (TCE). For OUCTP, the primary COC is carbon tetrachloride (CT).
- 1.02 The maximum estimated concentration of TCE in the groundwater beneath the former Fort Ord is 84 micrograms per liter ( $\mu$ g/L) as of June 2005. TCE is known to the State of California ("State") to cause cancer. The State Maximum Contaminant Level (MCL) for TCE is 5  $\mu$ g/L.

- 1.03 The maximum estimated concentration of CT in the groundwater beneath the former Fort Ord is 11  $\mu$ g/L as of June 2005. CT is known to the State to cause cancer. The State MCL for CT is 0.5  $\mu$ g/L.
- 1.04 Pursuant to the Fort Ord Federal Facility Agreement, signed by the Parties and the U.S. EPA in 1990, in which the Army agreed to complete the cleanup at Fort Ord, Records of Decision (RODs) were signed by the Parties and the U.S. EPA for OU1, OU2 and Sites 2/12. The OU1, OU2 and Sites 2/12 contaminant plumes are undergoing extraction and treatment pursuant to the RODs. Locations of extraction and injection wells for the treatment systems and the locations of monitoring wells located on the Property are shown in Exhibit "C". The Covenantor and the U.S. EPA will prepare a ROD documenting the decision on remedial action for OUCTP, which will also be reviewed by the Department and the Regional Water Board.
- 1.05 The Covenantor has prepared and maintains the "Former Fort Ord Special Groundwater Protection Zone Map" (also referred to herein as the "Map" and attached as Exhibit "A"). The Map identifies the "Prohibition Zone," which encompasses the area overlying or adjacent to the Plumes at the former Fort Ord. The Property is located within the Prohibition Zone.
- 1.06 Monterey County (also referred to herein as the "County") has enacted Ordinance No. 04011 (also referred to herein as the "Ordinance" and attached as Exhibit "B"). The Ordinance prohibits the construction of water wells and acceptance by the County of applications for well construction permits within the Prohibition Zone, as identified on the Map.
- 1.07 The Property, consisting of two non-contiguous parcels and totaling approximately 101.628 acres, is more particularly depicted in Exhibit "C" and described in Exhibit "D". The Property is located on the former Fort Ord, California and within the jurisdiction of the County of Monterey, California. The Property is summarized in the table below.

Parcel Number	Acres	Name on Legal Description in Exhibit D	Intended Reuse
E4.6.2	16.416	EDC Parcel E4.6.2	Right-of-way / Imjin Road
E8a.1.1.2	85.212	EDC Parcel E8a.1.1.2	Development / Non-
			irrigated Open Space

1.08 The estimated minimum depths to groundwater and maximum concentrations of TCE and CT in the groundwater beneath the Property, as of June 2005, are listed in the table below.

Parcel Number	Estimated Minimum Depth to Groundwater (feet below ground surface)	Estimated Maximum Concentration of TCE (µg/L)	Estimated Maximum Concentration of CT (µg/L)
E4.6.2	98.14	28	0.83
E8a.1.1.2	121.03	26	0.14

#### ARTICLE II

#### **DEFINITIONS**

- 2.01 <u>Department</u>. "Department" means the California Department of Toxic Substances Control and includes its successor agencies, if any.
- 2.02 <u>Regional Water Board.</u> "Regional Water Board" means the California Regional Water Quality Control Board, Central Coast Region, and includes its successor agencies, if any.
- 2.03 <u>U.S. EPA</u>. "U.S. EPA" means the United States Environmental Protection Agency.
- 2.04 <u>Water Agency.</u> "Water Agency" means the Monterey County Water Resources Agency.
- 2.05 <u>Health Department.</u> "Health Department" means the Monterey County Environmental Health Department.
- 2.06 <u>Covenantor</u>. "Covenantor" means the United States of America acting through the Department of the Army.
- 2.07 Owner. "Owner" means the Covenantor's successors in interest, and their successors in interest, including heirs and assigns, during their ownership of all or any portion of the Property.
- 2.08 Occupant. "Occupant" means Owners and any person or entity entitled by ownership, leasehold, or other legal relationship to the right to occupy any portion of the Property after the Covenantor has conveyed the Property.

#### ARTICLE III

#### **GENERAL PROVISIONS**

- 3.01 Restrictions to Run with The Land. This Covenant sets forth protective provisions, covenants, restrictions, and conditions (collectively referred to as "Restrictions"), subject to which the Property and every portion thereof shall be improved, held, used, occupied, leased, sold, hypothecated, encumbered, and/or conveyed. Each and every Restriction: (a) runs with the land pursuant to Health and Safety Code Sections 25222.1, and 25355.5(a)(1)(c), and Civil Code Section 1471; (b) inures to the benefit of the Department and the Regional Water Board and passes with each and every portion of Property; (c) is for the benefit of, and is enforceable by, the Department and the Regional Water Board; and (d) is imposed upon the entire Property unless expressly stated as applicable only to a specific portion thereof.
- 3.02 Binding upon Owners/Occupants. Pursuant to Health and Safety Code Sections 25222.1

and 25355.5(a)(1)(C) and Civil Code Section 1471, this Covenant binds all Owners and Occupants of the Property, and their heirs, successors, and assignees, and their agents, employees, and lessees. Pursuant to Civil Code Section 1471, all successive Owners and Occupants of the Property are expressly bound hereby for the benefit of the Department and the Regional Water Board.

- 3.03 <u>Written Notice of Release of Hazardous Materials</u>. Prior to the sale, lease, or sublease of the Property, or any portion thereof; or the execution of a license or easement on the Property, the owner, lessor, or sublessor shall give the buyer, lessee, or sublessee written notice that hazardous materials are located beneath the Property as required by Health and Safety Code Section 25359.7.
- 3.04 <u>Accompaniment to Deeds and Leases</u>. This Covenant shall accompany all deeds and leases for any portion of the Property.
- 3.05 <u>Conveyance of Property</u>. The immediate past Owner shall notify the Department, the Regional Water Board, the Water Agency, and the Health Department not later than thirty (30) days after executing any document conveying any ownership interest in the Property (excluding short-term rentals and leases, mortgages, liens, and other non-possessory encumbrances). None of the above agencies shall have, by reason of this Covenant, authority to approve, disapprove, or otherwise affect any proposed conveyance, except as otherwise provided by law, by administrative order, or by a specific provision of this Covenant.
- 3.06 Costs of Administering this Covenant. The Department has incurred and will in the future incur costs associated with the administration of this Covenant. Pursuant to California Code of Regulations, title 22, section 67391.1(h), the Department's costs associated with the administration of this Covenant must be paid. In order to accomplish this, the Department intends to enter into an agreement with FORA to pay the Department's costs. The agreement will provide that the Department's costs associated with administering this Covenant will be paid by FORA or a successor. In the event that the Department's costs associated with administering this Covenant are not paid pursuant to the agreement, the costs shall be paid by the current Owner.

#### ARTICLE IV

#### RESTRICTIONS

- 4.01 <u>Prohibited Activities</u>. The following activities are prohibited on the Property:
  - (a) Construction of groundwater wells for injection or extraction and utilization, and
  - (b) Any other activity on the Property that would interfere with or adversely affect the groundwater remediation systems on the Property or result in the creation of a

groundwater recharge area (e.g., unlined surface impoundments or disposal trenches). Normal landscaping and irrigation activities within the Property including routine irrigation practices are not prohibited activities.

- 4.02 <u>Notification of Discovery of Activities Affecting Groundwater Systems</u>. The Owner or Occupant shall notify the Department, the Regional Water Board, the Water Agency, the Health Department, U.S. EPA, and the Covenantor of the discovery of any activities conducted by the Owner or Occupant interfering with or adversely affecting any groundwater extraction, treatment, or monitoring installation for the Property. The Owner or Occupant shall provide the notification in accordance with Section 7.04 within seven (7) working days after the discovery of the activity and shall include information regarding the type of activity, date of the activity, and location of the activity on the Property.
- 4.03 Access. The Department, the Regional Water Board, Covenantor, and their contractors and agents shall have reasonable right-of-entry and access to the Property for inspection, monitoring, testing, sampling, installation and monitoring of remedial systems, and other activities consistent with the purposes of this Covenant as deemed necessary by the Department and the Regional Water Board in order to protect the public health and safety or the environment and oversee any required activities.

#### ARTICLE V

## IMPLEMENTATION AND ENFORCEMENT

- 5.01 <u>Implementation</u>. Implementation of this Covenant shall be achieved by:
  - (a) Continued updating of the Map by the Covenantor in consultation with the Department, the Regional Water Board and the U.S. EPA.
  - (b) Implementation and enforcement of the Ordinance by the County.
  - (c) Covenantor's annual review of the Property with an annual letter report to the Department and the Regional Water Board summarizing, for the previous calendar year, the following:
    - 1. Any changes to the Map in the previous calendar year;
    - 2. Any significant changes to the Plumes as described by regular groundwater monitoring reports;
    - 3. The disposition of well permit applications submitted to the County for proposed well locations on the Property; and
    - 4. Any prohibited activities, as described in Section 4.01 of this Covenant, observed by or reported to the Covenantor during the course of the review.
- 5.02 <u>Enforcement</u>. Failure of the Owner or Occupant to comply with any of the Restrictions specifically applicable to it shall be grounds for the Department or the Regional Water Board, by

reason of this Covenant, to require that the Owner or Occupant modify or remove any improvements ("Improvements" herein shall include, but are not limited to, all buildings, roads, driveways, and paved parking areas, water wells, and surface impoundments) constructed or placed upon any portion of the Property in violation of this Covenant. Violation of this Covenant shall be grounds for the Department or the Regional Water Board to file civil or criminal actions against the Owner or Occupant as provided by law.

#### ARTICLE VI

## **VARIANCE, TERMINATION AND TERM**

- 6.01 <u>Variance</u>. The Covenantor, any Owner or, with the Owner's written consent, any Occupant of the Property, may apply to the Department for a written variance from the provisions of this Covenant. Such application shall be made in accordance with California Health and Safety Code Section 25233. The Department shall receive the concurrence of the Regional Water Board, with an opportunity to comment by U.S. EPA and the Covenantor, before any such variance is effective.
- 6.02 <u>Termination</u>. The Covenantor, any Owner and/or, with the Owner's written consent, any Occupant of the Property, or any portion thereof, may apply to the Department for a termination of the Restrictions or other terms of this Covenant as they apply to all or any portion of the Property. Such application shall be made in accordance with California Health and Safety Code Section 25234. The Department shall receive the concurrence of the Regional Water Board, with an opportunity to comment by U.S. EPA and the Covenantor, before any such termination is effective.
- 6.03 <u>Term.</u> Unless ended in accordance with the termination paragraph above, by law, or by the Department and the Regional Water Board in the exercise of their discretion, this Covenant shall continue in perpetuity.

#### ARTICLE VII

#### **MISCELLANEOUS**

- 7.01 <u>No Dedication Intended.</u> Nothing set forth in this Covenant shall be construed to be a gift or dedication, or offer of a gift or dedication of the Property, or any portion thereof to the general public or anyone else for any purpose whatsoever.
- 7.02 <u>State of California References</u>. All references to the State of California, the Department, and the Regional Water Board include successor agencies/departments or other successor

entity(ies) and delegated agencies.

- 7.03 Recordation. The Covenantor shall record this Covenant, with all referenced Exhibits, in the County of Monterey within ten (10) days of the Covenantor's receipt of a fully executed original and prior to transfer of the Property from the Department of the Army to another Owner.
- 7.04 <u>Notices</u>. Whenever any person gives or serves any Notice ("Notice" as used herein includes any demand or other communication with respect to this Covenant), each such Notice shall be in writing and shall be deemed effective: (1) when delivered, if personally delivered to the person being served or to an officer of a corporate party being served, or (2) three (3) business days after deposit in the mail, if mailed by United States mail, postage paid, certified, return receipt requested:

To Covenantor:

Director, Fort Ord Office

Army Base Realignment and Closure

P.O. Box 5008

Presidio of Monterey, CA 93944-5008

To Department:

Chief of Northern California Operations

Office of Military Facilities

Department of Toxic Substances Control

8800 Cal Center Drive

Sacramento, CA 95826-3200

To Regional Water Board:

**Executive Officer** 

California Regional Water Quality Control Board

Central Coast Region

895 Aerovista Place, Suite 101 San Luis Obispo, CA 93401-7906

To U.S. EPA:

Chief, Federal Facility and Site Cleanup Branch

Superfund Division

U.S. Environmental Protection Agency, Region IX

75 Hawthorne Street, Mail Code: SFD-8-3

San Francisco, CA 94105-3901

To Water Agency:

General Manager

Monterey County Water Resources Agency

893 Blanco Circle

Salinas, CA 93901-4455

To Health Department:

Chief, Environmental Health Division
Monterey County Health Department

1270 Natividad Road Salinas, CA 93906-3122

Any party may change its address or the individual to whose attention a Notice is to be sent by giving written Notice in compliance with this paragraph.

- 7.05 Partial Invalidity. If any provision of this Covenant is determined by a court of competent jurisdiction to be invalid for any reason, the surviving portions of this Covenant shall remain in full force and effect as if such portion found invalid had not been included herein.
- 7.06 <u>Exhibits</u>. All exhibits referenced in this Covenant are deemed incorporated into this Covenant by reference.
- 7.07 <u>Section Headings</u>. The section headings set forth in this Covenant are included for convenience and reference only and shall be disregarded in the construction and interpretation of any of the provisions of this Covenant.
- 7.08 <u>Statutory References</u>. All statutory references include successor provisions.
- 7.09 <u>Representative Authority</u>. The undersigned representative of each party to this Covenant certifies that he or she is fully authorized to enter into the terms and conditions of this Covenant and to execute and legally bind that party to this Covenant.

{Signatures follow}

IN WITNESS WHEREOF, the COVENANTOR has caused this Covenant to be executed in its name by the Deputy Assistant Secretary of the Army for Installations and Housing and the Seal of the Department of the Army to be hereunto affixed this 20 day of 2006.
DEPARTMENT OF THE ARMY
Joseph W. Whitaker  Deputy Assistant Secretary of the Army for Installations and Housing
ACKNOWLEDGMENT
COMMONWEALTH OF VIRGINIA ) )ss COUNTY OF ARLINGTON )
I, the undersigned, a Notary Public in and for the Commonwealth of Virginia, County of Arlington, whose commission as such expires on the 31 day of August 2009, do hereby certify that on this day personally appeared before me in the said Commonwealth of Virginia, County of Arlington, Joseph W. Whitaker, Deputy Assistant Secretary of the Army for Installations and Housing, whose name is signed to the foregoing instrument and acknowledged the foregoing instrument to be his free act and deed, dated the 20 day of 2006, and acknowledges the same for and on behalf of the UNITED STATES OF AMERICA.
Given under my hand this 20 day of fune, 2006.
Mandelle John NOTARY PUBLIC
My Comm. Exps. 8/31/2009

IN WITNESS WHEREOF, the DEPARTMENT OF TOXIC SUBSTANCES CONTROL, STATE OF CALIFORNIA has caused these presents to be executed on this glin day of , 2006.

#### DEPARTMENT OF TOXIC SUBSTANCES CONTROL

Anthony J. Landis
Chief of Northern California Operations, Office of Military Facilities

# ACKNOWLEDGMENT

STATE OF CALIFORNIA	)
COUNTY OF SACRAMENTO	)ss )
On June 8 2006	before me, <u>Hathlen Duneun</u> ,
personally appeared	Thony J. Landis

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Muthless Dundens
Signature of Notary Public



IN WITNESS WHEREOF, the CENTRAL COAST REGIONAL WATER QUALITY CONTROL BOARD, STATE OF CALIFORNIA has caused these presents to be executed on this 23 day of Figure 4, 2006.

CENTRAL COAST REGIONAL WATER QUALITY CONTRO	$\mathbf{OL}$	BOARD
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Roger W. Briggs Executive Officer

# **ACKNOWLEDGMENT**

STATE OF CALIFORNIA	)
	)ss
COUNTY OF SAN LUIS OBISPO	)

NOTARY PUBLIC

CAROL HEWITT
Commission # 1641511
Notary Public - California
San Luis Obispo County
My Comm. Expires Jan 28, 2010

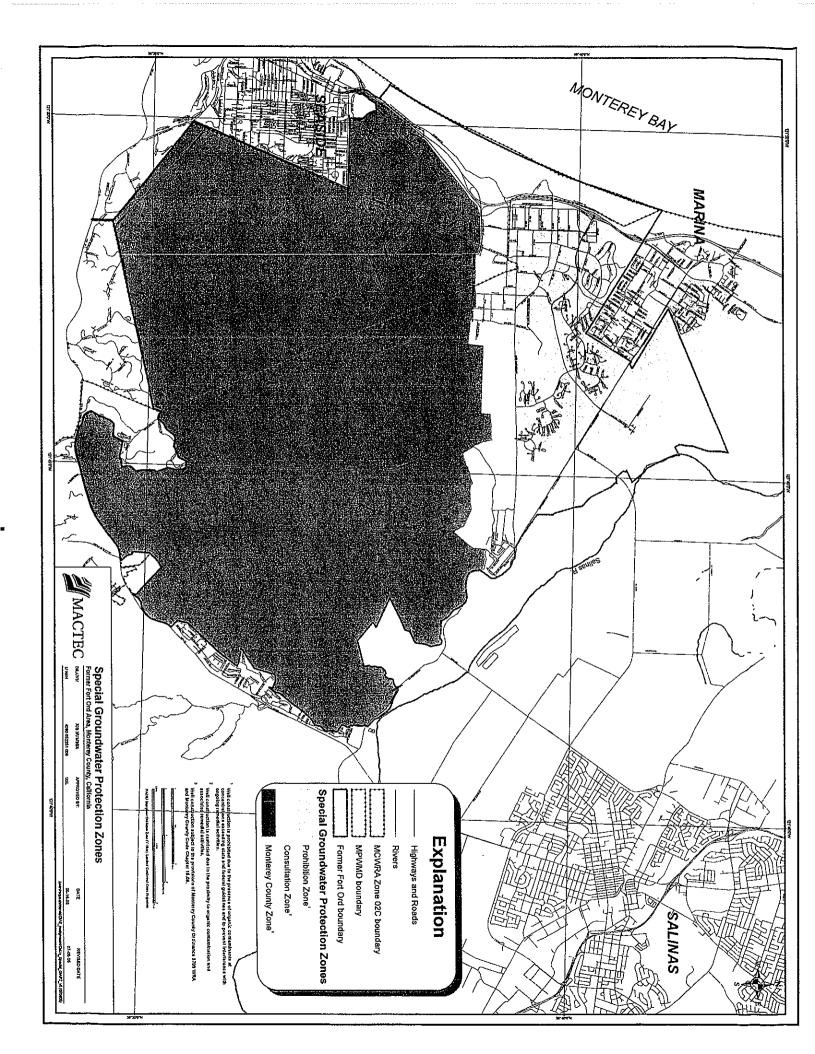
#### **CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

	8\\B\\B\\B\\B\\B\\B\\B\\B\\B\\B\\B\\B\\B
State of California	)
	ss.
County of <u>Saw Luis Obispo</u>	J
On <i>FESKUPK 23, 20</i> 6 before me,	Name and Title of Officer (e.g., "Jane Doe, Notary Public")  FR (J.) BRIGGS  Name(s) of Signer(s)
personally appeared <i>Roga</i>	ER W. BRIGGS
	Name(s) of Signer(s)
	personally known to me
	□ proved to me on the basis of satisfactory evidence
	to be the person(s) whose name(s) is/ero subscribed to the within instrument and acknowledged to me that he/ehe/they executed
	the same in his/ <del>her/their</del> authorized
-	capacity <del>(ies),</del> and that by his/ <del>her/their</del>
CAROL HEWITI Commission # 1641511	signature(s) on the instrument the person(s), or
Notary Public - California	the entity upon behalf of which the person(s) acted, executed the instrument.
San Luis Obispo County	acted, excedied the monament.
My Comm. Expires Jan 28, 2016	WITNESS my hand and official seal.
	Les Sign
	Signature of Natary Public
	•
	PTIONAL ————————————————————————————————————
	r prove valuable to persons relying on the document and could prevent schment of this form to another document.
Description of Attached Document	
Title or Type of Document:	
Document Date:	Number of Pages:
Signer(s) Other Than Named Above:	
Capacity(ies) Claimed by Signer	
Signer's Name:	RIGHT THUMBPRIN
Co. La dividual	OF SIGNER Top of thumb here
☐ Individual ☐ Corporate Officer — Title(s):	'
□ Partner — □ Limited □ General	
☐ Attorney-in-Fact	
☐ Trustee	
☐ Guardian or Conservator	
☐ Guardian or Conservator ☐ Other:	
☐ Guardian or Conservator	

# EXHIBIT "A"

Former Fort Ord Special Groundwater Protection Zone Map

**EXHIBIT A** 



# EXHIBIT "B"

Monterey County Ordinance 04011, which prohibits pumping and use of the groundwater and defines the "Special Groundwater Protection Zone".

**EXHIBIT B** 

## ORDINANCE NO. 04011

AN ORDINANCE OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, PROHIBITING AND/OR REGULATING THE DRILLING OF NEW WATER WELLS IN IDENTIFIED AREAS OF THE COUNTY LOCATED ON THE FORMER FORT ORD MILITARY BASE; AND ADDING AN INDEMNIFICATION AND HOLD HARMLESS PROVISION APPLICABLE WITHIN SPECIAL GROUNDWATER PROTECTION ZONE AREAS FOR AREAS WHERE GROUNDWATER PROBLEMS ARE KNOWN TO EXIST TO CHAPTER 15.08, TITLE 15, OF MONTEREY COUNTY CODE.

#### COUNTY COUNSEL SUMMARY

This Ordinance takes effect 30 days after adoption to prohibit and/or regulate the approval of any ministerial development entitlements in a defined area of the County of Monterey within the boundaries of the former Fort Ord due to groundwater contamination constraints. This Ordinance amends the depth of "well" or "water well" The Ordinance prohibits the construction of water wells and precludes acceptance of applications for well construction permits within a zone of prohibition and further requires special evaluation by appropriate authorities for wells within a consultation zone around the contaminant plumes. The Ordinance also contains an indemnification and hold harmless provision for special groundwater protection zone areas where groundwater quality problems are known to exist.

THE BOARD OF SUPERVISORS OF THE COUNTY OF MONTEREY, STATE OF CALIFORNIA, ORDAINS AS FOLLOWS:

SECTION 1. Subsection A.15 of of Section 15.08.020 of Chapter 15.08 of Title 15, of the Monterey County Code, shall be amended to read as follows:

"Well" or "water well" means any artificial excavation constructed by any method for the purpose of extracting water from, or injecting water into, the underground. "Well" includes abandoned wells, monitoring wells, observation wells, cathodic protection wells, test wells, and dry wells. <u>In the Former Fort Ord Special Groundwater Protection Zone</u>, "Well" shall include geotechnical borings greater than 50 feet in depth. "Well" or "water well" does not include:

- a. Oil and gas wells, or geothermal wells constructed under the jurisdiction of the Department of Conservation, except those wells converted to use as water wells; or
- b. Wells used for the purpose of dewatering excavation during construction, or stabilizing hillsides or earth embankments.

SECTION 2. Subsection C of Section 15.08.140 of Chapter 15.08 of Title 15, of the Monterey County Code shall be added to read as follows:

C. In areas overlying or adjacent to the contaminant plumes on the former Fort Ord (Prohibition Zone), water well construction shall be prohibited and no application for a ministerial well permit shall be accepted for any real properties within the Prohibition Zone area. The Prohibition Zone area is identified on the former Fort Ord, Special Ground Water Protection Zone Map, prepared and maintained by the United States Army and on file in the County of Monterey. Department of Health. This map will be updated as determined by the Fort Ord Base Realignment and Base Closure Team (BCT). The BCT consists of representatives of the U.S. Army, U.S. Environmental Protection Agency, California Department of Toxic Substances Control, and the California Regional Water Control Board, Central Coast Region. Whether or not the location of a proposed well is within the territory subject to this prohibition shall be determined by the Health Officer in consultation with the BCT in accordance with the map on file in the Department of Health.

This prohibition shall not apply to monitoring wells constructed for groundwater quality monitoring and to wells constructed for the purpose of remediation of the contaminant plumes.

SECTION 3. Subsection D of Section 15.08.140 of Chapter 15.08 of Title 15, of the Monterey County Code shall be added to read as follows:

D. In areas where groundwater extraction may impact or be impacted by the contaminated plumes on the former Ford Ord (Consultation Zone)m well construction shall be subject to special review, evaluation, conditions of construction, and possibly prohibition against drilling. The Consultation Zone area is identified on the former Fort Ord, Special Ground Water Protection Map. Whether or not the location of a proposed well is within the consultation zone area shall be determined by the Health Officer in consultation with the BCT in accordance with the map on file in the Department of Health.

The applicant will be responsible to provide all such information necessary to determine potential impacts, including but not limited to design specifications, anticipated uses, perforation levels, pumping and production schedules, and a plume impact modeling report.

Applications will be deemed complete or incomplete within 30 days from the date of receipt. Any permits issued shall be subject to conditions of approval regarding construction and use. If permit approval is appropriate, as determined by the Health Officer, such permit will be issued within 30 days of submittal of a complete application, or as soon thereafter as reasonably practicable.

This Consultation Zone restriction shall not apply to monitoring wells constructed for groundwater quality or quantity monitoring, or to wells constructed for the purpose of remediation of the contaminant plumes.

SECTION 4. Subsection E of Section 15.08.140, of Chapter 15.08 of Title 15, of the Monterey County Code, shall be added to read as follows:

E. Each permit issued pursuant to this Section shall have as a condition of the permit approval, a requirement that the applicant indemnify and hold harmless the County and its officers, agents, and employees from actions or claims of any description brought on account of any injury or damages sustained by any person or property resulting from the issuance of the permit and the conduct of the activities authorized under said permit.

#### SECTION 5. EFFECTIVE DATE.

This Ordinance will be in effect 30 days after adoption by the Board of Supervisors.

PASSED AND ADOPTED this 27th day of April, 1999, by the following vote:

AYES: Supervisors Salinas, Pennycook, and Calcagno.

NOES: None.

ABSENT: Supervisors Johnsen and Potter.

JUDY PENWYCOOK, Chair Board of Supervisors

ATTEST:

Sally R. Reed

Clerk of the Board

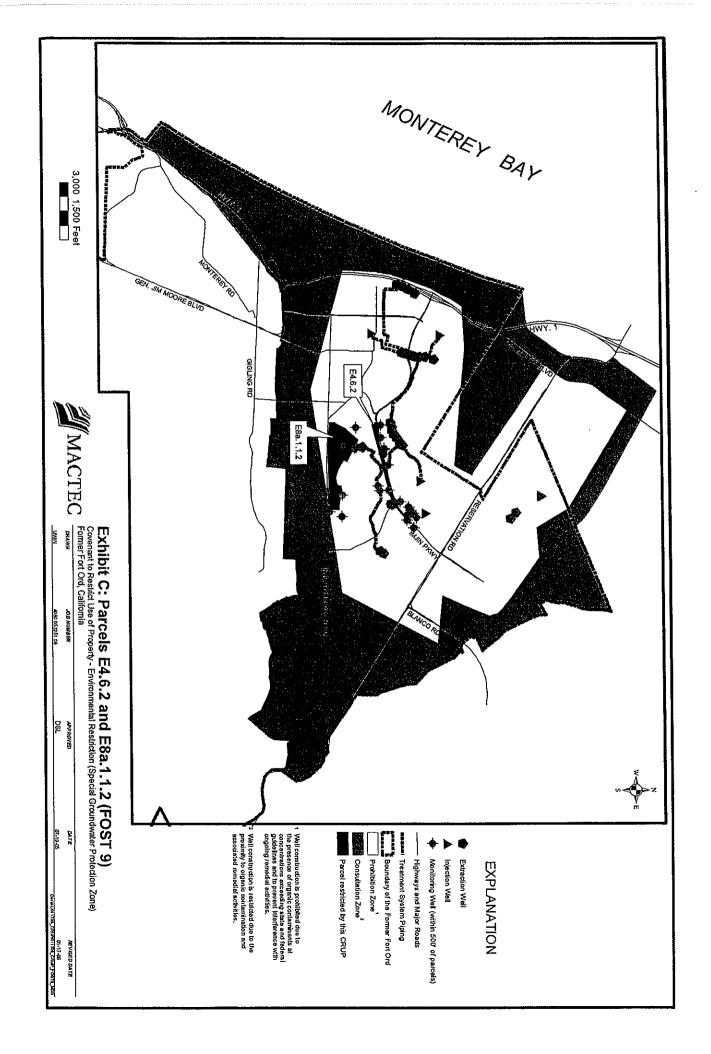
APPROVED AS TO FORM:

County Counsel

# EXHIBIT "C"

Plate showing the locations of parcels to be restricted by this covenant, the locations of monitoring wells within the parcels, and extraction and injection wells within the Prohibition Zone and the Consultation Zone of the Special Groundwater Protection Zone.

**EXHIBIT C** 



# EXHIBIT "D"

Legal descriptions and records of survey of the parcels restricted by this covenant	L	egal	descri	ptions	and	records	of	survey	of	the	parcels	restri	cted	bу	this	COV	enant.
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#### Notes to Exhibit D:

- 1. The Covenantor intends to transfer the parcels to the Fort Ord Reuse Authority (FORA).
- 2. FORA intends to transfer the parcels to the County of Monterey.

**EXHIBIT D** 

EDC Parcel E4.6.2 FOST 9 Fort Ord Military Reservation Monterey County, California

## Legal Description of E4.6.2

SITUATE in a portion of the former Fort Ord Military Reservation as it is shown on that certain map recorded in Volume 19 of Surveys at Page 1, Official Records of Monterey County, being within Monterey City Lands Tract No. 1, the City of Marina, County of Monterey, State of California; being a portion of Parcel 1 as it is shown on that certain map recorded in Volume 20 of Surveys at Page 110 more particularly described as follows:

BEGINNING at the most northwesterly angle point in the boundary of Parcel 1 as it is shown on that certain map entitled "Monterey County V" recorded in Volume 23 of Surveys at Page 94 said point also being a corner common to Parcel 1 as it is shown on that certain map recorded in Volume 20 of Surveys at Page 110 and to Parcel 4 as it is shown on that certain map recorded in Volume 27 of Surveys at Page 17; thence from said Point of Beginning along the boundary of said Parcel 1 as shown on Volume 20 of Surveys at Page 110

- 1. North 02° 15' 00" East for a distance of 185.36 feet to an angle point on said line; thence continuing along the southerly boundary of said Parcel 1
- 2. South 72° 22' 46" West for a distance of 114.33 feet to a point on a line; thence leaving said southerly boundary of said Parcel 1
- 3. North 02° 27' 15" East for a distance of 70.22 feet to a point; thence
- 4. North 80° 31' 38" East for a distance of 1359.54 feet to a point; thence
- 5. North 75° 41' 40" East for a distance of 2580.00 feet to a point; thence
- 6. North 72° 07' 42" East for a distance of 313.63 feet to a point; thence
- 7. North 65° 45' 47" East for a distance of 143.11 feet to a point; thence
- 8. North 65° 24' 44" East for a distance of 90.73 feet to a point; thence
- 9. North 60° 41' 32" East for a distance of 186.93 feet to a point; thence
- 10. North 57° 01' 56" East for a distance of 192.50 feet to a point; thence

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- 11. North 48° 22' 38" East for a distance of 111.03 feet to a point; thence
- 12. North 49° 23' 55" East for a distance of 608.49 feet to a point; thence
- 13. North 49° 06' 04" East for a distance of 140.90 feet to a point; thence
- 14. South 47° 16' 43" East for a distance of 69.00 feet to a point on the southerly boundary line of said Parcel 1 as shown on Volume 20 of Surveys at Page 110; thence continuing along the southerly boundary of said Parcel 1
- 15. South 50° 00' 00" West for a distance of 741.41 feet to the beginning of a curve; thence continuing along the southerly boundary of said Parcel 1
- 16. Along a curve to the right through an angle of 11° 00' 00", having a radius of 2500.00 feet, for an arc length of 479.97 feet and whose long chord bears South 55° 30' 00" West for a distance of 479.23 feet to a point of intersection with a tangent line; thence continuing along the southerly boundary of said Parcel 1
- 17. South 61° 00° 00" West for a distance of 108.24 feet to an angle point on said boundary line; thence continuing along the southerly boundary of said Parcel 1
- 18. South 33° 30' 00" East for a distance of 15.33 feet to the most northeasterly corner of said Parcel 1 "Monterey County V"; thence continuing along the common boundary of said Parcel 1 as shown on Volume 20 of Surveys at Page 110 and said Parcel 1 "Monterey County V"
- 19. South 61° 00' 00" West for a distance of 25.80 feet to the beginning of a curve; thence continuing along the common boundary of said Parcel 1 as shown on Volume 20 of Surveys at Page 110 and said Parcel 1 "Monterey County V"
- 20. Along a curve to the right through an angle of 15° 00' 00", having a radius of 1615.29 feet, for an arc length of 422.88 feet and whose long chord bears South 68° 29' 60" West for a distance of 421.68 feet to a point of intersection with a tangent line; thence continuing along the common boundary of said Parcel 1 as shown on Volume 20 of Surveys at Page 110 and said Parcel 1 "Monterey County V"
- 21. South 76° 00' 00" West for a distance of 171.50 feet to a point on said boundary line; thence continuing along the common boundary of said Parcel 1 as shown on Volume 20 of Surveys at Page 110 and said Parcel 1 "Monterey County V"

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- 22. South 03° 30' 00" West for a distance of 55.27 feet to a point on said boundary line; thence continuing along the common boundary of said Parcel 1 as shown on Volume 20 of Surveys at Page 110 and said Parcel 1 "Monterey County V"
- 23. South 76° 00' 00" West a distance of 3758.36 feet to the POINT OF BEGINNING.

Containing an area of 16.416 acres, more or less.

This legal description was prepared by

van A Kovach L. S. 53

My license expires December 31, 2005

(16) Parcel 2 27 SURVEYS 17 10 (18) (18) (18) 6 8 SCALE IN FEET (6) (23) Being also within Monterey City Lands Tract No. 1 Lying within the Fort Ord Military Reservation PARCEL E4.6.2 Monterey County Jurisdiction 20 SURVEYS 91 as shown on Vol. 19 of Surveys at Page 1 parcel 1 Monterey County, California COUNTY V" 23 SURVEYS 94 'MONTEREY Parcel 1 FOST 9 EDC တ် Fort Ord EXHIBIT Parcel 1 MARINA 1 23 SURVEYS 9 oto (23) (n) Imjin Road Par. Course Numbers Refer to the Legal Description E4.6.2 16,416 acres Parcel 4 27 SURVEYS 17 4 POB Note:

(E)

EDC Parcel E8a.1.1.2
FOST 8
Fort Ord Military Reservation
Monterey County, California

## Legal Description

SITUATE in a portion of the former Fort Ord Military Reservation as it is shown on that certain map recorded in Volume 19 of Surveys at Page 1, Official Records of Monterey County, being within Monterey City Lands Tract No. 1, the City of Marina, County of Monterey, State of California; being a portion of Parcel 1 "Monterey County V" as it is shown on that certain map recorded in Volume 23 of Surveys at Page 94 more particularly described as follows:

BEGINNING at the most southwesterly angle point in the boundary of Parcel 1 "Monterey County V" as it is shown on that certain map recorded in Volume 23 of Surveys at Page 94 said point also being a corner common to Parcel 7 as it is shown on that certain map recorded in Volume 20 of Surveys at Page 110; thence from said Point of Beginning along the boundary of said Parcel 1

- 1. North 02° 15' 00" East for a distance of 298.94 feet to a point on said boundary line; thence leaving said boundary line
- 2. North 29° 59' 46" East for a distance of 569.15 feet to a point on a line; thence
- 3. North 41° 30' 22" East for a distance of 950.00 feet to a point on a line; thence
- 4. South 63° 14' 51" East for a distance of 1259.83 feet to a point on a line; thence
- 5. South 19° 07' 36" West for a distance of 222.73 feet to a point on a line; thence
- 6. South 63° 09' 22" East for a distance of 586.18 feet to a point on a line; thence
- 7. South 72° 20' 58" East for a distance of 447.16 feet to a point on a line; thence
- 8. North 84° 32' 46" East for a distance of 272.34 feet to a point on a line; thence
- 9. North 62° 32' 25" East for a distance of 181.87 feet to a point on a line; thence
- 10. North 02° 47' 28" East for a distance of 181.67 feet to a point on a line; thence
- 11. South 89° 54' 39" East for a distance of 168.60 feet to a point on a line; thence
- 12. South 82° 26′ 59" East for a distance of 1085.23 feet, more or less, to a point on the easterly boundary line of said Parcel 1 "Monterey County V"; thence along said boundary line

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- 13. South 03° 30' 00" West for a distance of 489,81 feet to an angle point in said boundary line being a corner common to said Parcel 7; thence along the common boundary line of said Parcel 7 and said Parcel 1
- 14. South 88° 35' 00" West for a distance of 2513.41 feet to the beginning of a tangent curve; thence along said common boundary line of said Parcel 7 and said Parcel 1
- 15. Along a curve to the right through an angle of 03° 40′ 00″, having a radius of 1906.00 feet, for a length of 121.98 feet and whose long chord bears North 89° 35′ 00″ West for a distance of 121.95 feet to a point of intersection with a tangent line; thence along said common boundary line of said Parcel 7 and said Parcel 1
- 16. North 87° 45' 00" West a distance of 1949.74 feet to the POINT OF BEGINNING.

Containing an area of 85.212 acres, more or less.

This legal description was prepared by

Lynn A. Kovach

L. S. 5321

My license expires December 31, 2005

No. 5321 Exp. 12-31-05 \*

Parcel 6 20 SURVEYS 10 Parcel 2 19 SURVEYS 15 Parcel 8 10 SURVEYS II Note: Course Numbers Refer to the Legal Description SCALE IN FEET as shown on Vol. 19 of Surveys at Page 1 Being also within Monterey City Lands Tract No. 1 Monterey County, California Intergarrison Road COUNTY V"
23 SURVEYS
94 "MONTEREY Parcel 1 20 Parcel 3B 19 SURVEYS 86 Parcel 6 26 SURVEYS 110 SURVEYS 110 3,711,831 sq. ft. Parcel ,85.212 acres Parcel 3A 19 SURVEYS 86 "MONTEREY COUNTY V" 23 SURVEYS 94 P.O.B.

Lying within the Fort Ord Military Reservation

FOST 8 EDC

of PARCEL E8a.1.1.2 Monterey County Jurisdiction Fort Ord

EXHIBIT

